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on human rights of migrants
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# INFORMATION AND COMMENTS RECEIVED FROM GOVERNMENTS, UNITED NATIONS BODIES, SPECIALIZED AGENCIES, INTERGOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS

Report of the Secretary-General

ANNEX

Submission from the Czech Republic

GE.98-10247

QUESTIONNAIRE ON THE HUMAN RIGHTS OF MIGRANTS

# CZECH REPUBLIC

**January 1998**

*1. What are the latest figures or estimates for:*

*- total population, including non-nationals, preferably by nationality of origin:*

In 1997 the Czech Republic had an estimated 10,300.000 inhabitants (i. e. permanent residents.) As of 30 June 1997 206.577 non-nationals were residing legally in the Czech Republic. Of the total of 206.577 non-nationals with a regular residence status, 50.396 non-nationals had permanent residence permits, 155.698 had long-term residence permits and 483 had other legal status (temporary protected persons and others).
The major groups of foreign nationals in the Czech Republic were nationals of the following countries:

| *country* | *permanent residence permits* | *long-term residence permits* | *total* | *per cent* |
|---|---|---|---|---|
| | *50.396* | *155.698* | | |
| | 206.577 (including 483 without permits) 100 % | | | |
| Slovakia | 11.123 | 40.102 | 51.225 | 24,80 |
| Ukraine | 3.444 | 40.772 | 44.216 | 24,40 |
| Poland | 12.032 | 12.889 | 24.921 | 12,06 |
| Vietnam | 3.795 | 15.314 | 19.109 | 9,25 |
| Russia | 2.203 | 5.415 | 7.618 | 3,69 |
| Germany | 2.094 | 4.245 | 6.339 | 3,07 |
| Bulgaria | 2.421 | 3.168 | 5.589 | 2,71 |
| China | 49 | 4.713 | 4.762 | 2,31 |
| Yugoslavia | 1.579 | 3.031 | 4.607 | 2,23 |
| USA | 1.835 | 2.758 | 4.593 | 2,22 |
| Belarus | 172 | 2.146 | 2.318 | 1,12 |
| Austria | 765 | 1.542 | 2.307 | 1,12 |
| Romania | 1.213 | 934 | 2.147 | 1,04 |
| Croatia | 546 | 1.593 | 2.139 | 1,04 |
| UK | 248 | 1.762 | 2.010 | 0,97 |

*- number of nationals abroad, preferably by country of residence*

Although prior to 1991 the Czech Republic (former Czechoslovakia) was a country with a higher foreign emigration then immigration, there is at present no reliable information concerning the number of Czech nationals living abroad. This is partly due to the fact that

the stay abroad is recorded in the Czech population register only when the Czech national leaves the homeland with the *prior* intention to leave the country permanently.

*- non-nationals having authorisation to work in the country*

As of 30 November 1997 the total of 64.311 non-nationals had an authorisation to work in the Czech Republic. In addition, 74.237 (as of 30 September 1997) Slovak nationals, who did not need an authorisation in order to work in the Czech Republic, were employed in the Czech Republic. (After the split of Czechoslovakia in 1993, the common labour market has been preserved by the *Treaty between the Czech Republic and the Slovak Republic on mutual employment of nationals* from 29 October 1992.)

In general, the major countries of origin of non-nationals having authorisation to work in the Czech Republic were Central and East European countries and CIS (former Soviet Union) countries. Major countries of origin of non-nationals who had authorisation to work in the Czech Republic were (as of 30 November 1997) the following:

| | | |
|---|---|---|
| 1. | Ukraine | 27.601 |
| 2. | Poland | 14.049 |
| 3. | Bulgaria | 3.492 |
| 4. | Belarus | 2.696 |
| 5. | Moldova | 2.003 |
| 6. | Germany | 1.554 |
| 7. | USA | 1.484 |
| 8. | Romania | 1.271 |
| 9. | UK | 1.228 |
| 10. | Russia | 1.157 |
| 11. | Macedonia | 1.048 |
| 12. | Mongolia | 760 |
| 13. | Austria | 473 |
| 14. | France | 469 |
| 15. | CIS | 462 |
| Other states | | 4.564 |
| TOTAL | | 64.311 |

This table does not include non-nationals who were registered in the Czech Republic as businessmen. As of 30 June 1996 out of the 1,348.493 businessmen 38.615 (almost 3 per cent) were foreign nationals.

*- estimate of irregular migrants, including visa abusers, by country of origin*

The Czech Aliens and border Police keeps only records of those irregular migrants who were detained when crossing the border of the Czech Republic illegally. The numbers of persons detained were 43,302 in 1993, 20,480 in 1994, 19,172 in 1995, 23,705 in 1996 and 24,020 in the period from January to October 1997. The major countries of origin of foreign nationals detained when crossing the border illegally were (in the period from January to October 1997) the following:

| *country* | *total* | *per cent* |
|---|---|---|
| Romania | 3.162 | 13,16 |
| Yugoslavia | 2.593 | 10,80 |
| Iraq | 1.930 | 8,03 |
| Afghanistan | 1.677 | 6,98 |
| Bulgaria | 1.677 | 6,98 |
| Macedonia (FYRM) | 1.553 | 6,47 |
| Germany | 1.469 | 6,12 |
| Poland | 1.322 | 5,50 |
| Ukraine | 741 | 3,08 |

These numbers, as well as some pilot researches and estimates by independent experts indicate that the number of irregular and undocumented migrants in the Czech Republic may be substantial. There are, however, no official estimates concerning the number of irregular migrants.

2. *What measures are being taken to strengthen the promotion, protection and implementation of the human rights of migrants, such as legal measures, public information and education, provision of direct assistance and services, other measures, including bilateral and multilateral arrangements ?*

After the collapse of the communist régime in Czechoslovakia in 1989 creating the legal and institutional frameworks for the protection and promotion of the human rights of individuals has been the political priority of the Czechoslovak (since 1993 Czech) authorities. Due to historical circumstances as well as to a relatively small numbers of foreign migrants living in the country, the awareness of the particular problems of the migrants was, however, relatively low in the early 1990s. Consequently, authorities adopted a number of legal instruments applicable to every person under the jurisdiction of the State and only a few measures or steps addressing the problems of the migrants specifically in this period.

For instance, the Charter of Fundamental Rights and Liberties which is a part of the Czech Constitution grants many of the fundamental human rights (such as are the right to life, freedom from torture or inhuman treatment, freedom of thought, conscience and religion, right to hold opinions, equality before the courts or the right of the employees to fair remuneration and favourable conditions of work) to every individual. For many of the economic and social rights the legal status of the non-national is decisive. In principle, the legal status of migrants with permanent residence permits equals to the status of citizen with regard to social, economic and culture rights. The legal status of the long-term migrants (and their family members) with regard to economic, social and culture rights is more complex. For instance, long term migrants are entitled to benefits of the state social support scheme such as are child allowances or housing benefits. On the other hand, the family members of the migrant workers with long-term residence permits are (unlike permanent residents) not automatically included in the public health insurance scheme. In the future, the legal rights of the long-term migrants and their family members will have to be scrutinised carefully and eventually revised.

Only after the substantial increase in the number of the permanent and long-term migrants during the nineties (from 38.002 in 1991 to 199.152 in 1996), the State authorities started to perceive and address the protection and promotion of human rights of migrants, in particular in the field of labour, health, social security legislation as a specific problem.

International agreements, in particular the agreements between the sending an receiving states present one of the most important specific instruments for securing the right of migrants

The Czech Republic (before 1993 Czechoslovakia) has concluded a number of bilateral agreements concerning the legal status, social security and employment of migrants. Recently, Czech Republic concluded agreements with two most important countries of origin of the migrant workers in the Czech Republic, Slovakia (1992) and Ukraine (1996). At present, the following bilateral agreements are in force:

**1. Bilateral agreements concerning social security**:

Treaty between Czechoslovakia and Poland on the co-operation in the field of social policy and administration (1948) and Treaty between Czechoslovakia and Poland on social insurance (1948)

The general treaty between Czechoslovakia and France on social security (1948) as supplemented and amended by its 1967 Supplements and Protocols

Treaty between the Czechoslovakia and Bulgaria on the co-operation in the field of social policy (1957) as amended in 1972 and 1986

Treaty between Czechoslovakia and the Federal Republic of Yugoslavia on the co-operation in the field of social policy (1957) and the Treaty between Czechoslovakia and the Federal Republic of Yugoslavia on social insurance (1957)

Treaty between Czechoslovakia and Romania on the co-operation is social affairs (1957)

Agreement between Czechoslovakia and Hungary on the co-operation in the field of social policy (1959)

Agreement between Czechoslovakia and the Soviet Union on social security (1959)
(The treaty covers the successor States of the Soviet Union with the exception of the Baltic States)

Treaty between the Czech Republic and the Slovak Republic on social security (1992)

Treaty between the Czech Republic and the Swiss Confederation on social security (1996)

**2. Treaties concerning the mutual employment of nationals**

Agreement between the government of the Czech and Slovak Federal Republic and the government of the Federal Republic of Germany on the mutual employment of the Czechoslovak and German nationals for the purposes of the enhancement of their professional and language skills (1991)

Agreement between the government of the Czech and Slovak Federal Republic and the government of the Federal Republic of Germany on the sending of Czechoslovak employees from the companies having their seat in the CSFR for the purposes of employment on the basis of contracts (1991)

Agreement between the government of the Czech and Slovak Federal Republic and the government of Poland on the mutual employment of the Czechoslovak and Polish nationals (1992)

Agreement between the government of the Czech Republic and the government of the Slovak Republic on mutual employment (1992)

Agreement between the government of the Czech Republic and the government of the Vietnam on the mutual employment of the Czech and Vietnamese nationals (1994)

Agreement between the government of the Czech Republic and the government of Ukraine on the mutual employment of the nationals of the Czech Republic and nationals of the Ukraine (1996)

The Czech Republic also concluded a specific agreement concerning the exchange of trainees with the Swiss Confederation (1997) and an agreement on the vocational training of students with Vietnam (1994).

The Czech Republic is a party to numerous ILO Conventions. The Czech Republic is also considering its accession to the *European Convention on the Legal Status of Migrant Workers* No. 93 (1977). The responsible authority, the Ministry of Labour and Social Affairs has completed study of the possibilities, problems and impacts of the accession which is to be discussed on the inter-ministerial level.

*3. Have there been manifestations (How many cases) of racism, xenophobia and other forms of discrimination against migrants in your country and against your nationals in another country?*

Since 1993 manifestations of racism, xenophobia and other form of discriminations against migrants - along with such manifestations of racism against members of the national minorities (in particular Romanies) - have been one of the major concerns of the Czech government. The reason for this concern is the growing number of registered cases of racially motivated violence, in most cases perpetuated by the members of extremist groups, such as skinheads.

The police registered 17 racially motivated conflicts in 1990, 26 in 1991, 35 in 1992, 51 in 1993, 130 in 1994, 181 in 1995, 131 in 1996 and 120 cases in the period January-June 1997. The victims of these conflicts were, however, in most cases not migrants or other foreigners, but members of the local minority population. In 1997, for instance, the Police registered 7 foreign nationals as victims of racially motivated attacks.

In 1995, a series of measures has been adopted by the government including the amendments of to the Penal Code introducing increased sanctions for racially motivated crimes in order to combat the manifestations of racism and xenophobia more efficiently. Consequently, the recorded growth in the number of cases of racially motivated violence is partly to be explained not as an absolute growth, but rather as a consequence of the implementation of the new measures.

No statistic information is available concerning the manifestations of racism, xenophobia or other forms of discrimination against Czech nationals in other countries.

*4. What steps have been taken in order to ratify the -1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, The International Labour Organisation (ILO) Convention concerning Migration for Employment*

*(Revised) 1949 (No. 97) and the ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers 1975 (No. 143) ?*

The Czech Republic is neither a party to the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (which is not yet in force) nor to the two International Labour Organisation Conventions.

The Czech Republic has been taking preliminary steps only with regard to the 1990 Convention on the Protection of Rights of All Migrant Workers: the text of the Convention is examined in order to assess its compatibility with the existing Czech legislation and to identify possible barriers, problems and obstacles to the accession. So far, no formal steps have been taken either on the national or the international level in order to ratify the 1990 Convention. The main reasons why the process is at its beginning, are both the profound changes in the spheres of the labour, social and health national legislation after 1989 which have not been fully completed yet and the scope and complexity of the 1990 Convention. In general, the protection and promotion of the rights of the migrant workers who are considered as non-documented or in an irregular situation (Art. 5, b) seems to pose the most serious challenge to the national legislation in force.

At present, the responsible national authority (i. e. the Ministry of Labour and Social Affairs) is working on the report concerning the application of the ILO Conventions and the obstacles of ratification due to be submitted to ILO in April 1998. On the basis of outcomes of the report and with regard to the position taken by the ILO, the Czech Republic will decide on the ratification of the two above mentioned ILO Conventions.